

DECEMBER 16, 2022

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HONORABLE P. KEVIN CASTEL
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF NEW YORK
DANIEL PATRICK MOYNIHAN U.S. COURTHOUSE
500 PEARL STREET
NEW YORK, NEW YORK 10007

RE: TIMOTHY MUIR V. UNITED STATES
22-cv-8745 (PKC); 16-cr-0091-2 (PKC)

DEAR JUDGE CASTEL:

I WRITE IN RESPONSE TO THE GOVERNMENT'S DECEMBER 1, 2022 LETTER AND THE COURT'S CORRESPONDING ORDER. I APOLOGIZE FOR THE DELAY IN RESPONDING, BUT FCI BECKLEY HAS BEEN LOCKED DOWN AGAIN BECAUSE THE SHU IS FULL.

AS DETAILED IN MY DECLARATION OF INMATE FILING SUBMITTED CONTEMPORANEOUSLY HEREWITH, IN ACCORD WITH THE COURT'S ORDER OF OCTOBER 13, 2022, I DEPOSITED A MEMORANDUM OF LAW IN THE INSTITUTION'S INTERNAL MAIL SYSTEM ON NOVEMBER 3, 2022. FOOTNOTE 1 OF THE GOVERNMENT'S LETTER CONFIRMED WHAT I HAD FEARED WHEN I WAS UNABLE TO SEND MY MEMORANDUM OF LAW CERTIFIED MAIL, THAT IS, IT HAD GOTTEN "LOST" IN THE INTERNAL MAIL SYSTEM HERE AT FCI BECKLEY. THIS IS THE SECOND TIME A PLEADING OF MINE HAS BEEN "LOST"—THE OTHER WAS MY CERT. PETITION.

ACCORDINGLY, I AM RE-SUBMITTING A COPY OF MY MEMORANDUM. IN LIGHT OF THE COURT'S ORDER EXTENDING THE GOVERNMENT'S DEADLINE UNTIL 60 DAYS AFTER RECEIPT OF THE LAST ATTORNEY'S AFFIDAVIT, I RESPECTFULLY SUBMIT THE GOVERNMENT WILL NOT BE PREJUDICED BY THE DELAYED RECEIPT OF MY MEMORANDUM. ACCORDINGLY, I RESPECTFULLY REQUEST THE COURT ACCEPT MY MEMORANDUM OF LAW AS TIMELY FILED.

LAST, I RESPECTFULLY OPPOSE THE GOVERNMENT'S REQUEST TO FILE A SINGLE RESPONSE FOR BOTH MY 2255 MOTION AND TUCKER'S. AS I UNDERSTAND THE ISSUES IN TUCKER'S MOTION, THERE IS NO OVERLAP AT ALL. STILL, IF THE GOVERNMENT IS WILLING TO CONCEDE THAT IF THE COURT GRANTS EITHER MOTION, WE ARE BOTH ENTITLED TO A NEW TRIAL, THEN I WITHDRAW MY OPPOSITION.

RESPECTFULLY SUBMITTED,

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TIMOTHY MUIR